

REMARKS

Applicants respectfully request reconsideration of the above-referenced U.S. Patent application as amended herein. Claims 5 and 10 have been amended. Claims 16-29 have been added. Thus, claims 5-29 are pending.

Claim Rejection - 35 U.S.C. § 102(b)

Claim 15 was rejected under 35 U.S.C. § 102(b) as being unpatentable over U.S. Patent No. 5,550,580 issued to Zhou (*Zhou*). For at least the reasons set forth below, Applicant submits that claim 15 is not anticipated by *Zhou*.

The Manual of Patent Examining Procedure ("MPEP"), in § 2131, states:

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. V. Union Oil Co. California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 869 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Thus, under 35 U.S.C. § 102, a claim is anticipated *only if* each and every element of the claim is found in the cited reference and the cited reference must show the invention in as complete detail as contained in the claim.

Independent claim 15 recites:

analyzing whether visual lip movements of said conferee are reasonably consistent with an audio signal from a conference station in which said conferee is located such that the combination of lip movement and audio signal indicates human speech.

Independent claim 5 similarly recites "determining whether a conferee is speaking based, at least in part, on whether visual lip movements of said conferee are substantially consistent with an

audio signal from a conference station in which said conferee is located.” Independent claim 11 similarly recites, “analyzing whether visual lip movements of said conferee are substantially consistent with an audio signal at said station so as to indicate human speech.” Independent claim 14 similarly recites, “analyzing a consistency between visual lip movements of said conferee and an audio signal from a conference station in which said conferee is located such that the combination of lip movement and audio signal indicates human speech.”

The Office action states that *Zhou* may be cited for teaching the above-quoted claim limitations and Applicant respectfully disagrees. *Zhou* states:

In order to differentiate between speech and music or background noise, the dynamic bit allocation and encoding process preferably performs a lip motion detection subroutine, illustrated in FIGS. 10a and 10b, during step 730. If the lip motion detection subroutine determines that the lips of at least one person in the videotelephone scene are moving in the presence of audio activity, it may be *assumed* that a person is talking.

Column 15, lines 39-46 (emphasis added). The cited passage of *Zhou* merely states that the disclosed teleconference system *assumes* a person is talking if lip motion is detected “in the presence of audio activity.” There is, however, no analysis of whether the detected lip movements are consistent with a detected audio signal. In fact, *Zhou* affirmatively states that the disclosed system merely *assumes* that the person is talking if it detects lip motion “in the presence of audio activity.”

In contrast, Applicant claims, “analyzing whether visual lip movements of said conferee are reasonably consistent with an audio signal from a conference station.” Applicant respectfully submits that the cited passages of *Zhou* do not disclose, “analyzing whether visual lip movements of said conferee are reasonably consistent with an audio signal from a conference station,” as recited in claims 5, 11, 14, and 15. Rather, as shown above, *Zhou* discloses assuming

that a person is talking if lip motion is detected in the presence of audio activity. Thus, Applicant respectfully submits that claims 5, 11, 14, and 15 are not anticipated by *Zhou*.

Claim Rejection - 35 U.S.C. § 103(a)

Claims 5-14 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Japanese Patent No. 06-062400 issued to Ogata, et al. (*Ogata*), in view of U.S. Patent No. 5,953,050 issued to Kamata, et al. (*Kamata*), and in further view of *Zhou*. For at least the reasons set forth below, Applicant submits that claims 5-14 are not rendered obvious in view of *Ogata*, *Kamata*, and *Zhou*.

The Manual of Patent Examining Procedure ("MPEP"), in § 706.02(j), states:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must be both found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

(Emphasis added). Thus, the MPEP and applicable case law require that the Office action establish that the combined references teach or suggest **all of the claim limitations** of rejected claims to establish a *prima facie* case of obviousness under 35 U.S.C. § 103.

The Office action states that neither *Ogata* nor *Kamata* disclose "analyzing whether lip movements of said conferee are reasonably consistent with an audio signal from a conference station," as recited in claims 5, 11, and 14. See page 3, paragraph 5. The Applicant respectfully agrees that neither *Ogata* nor *Kamata* teach or suggest the above-stated claim limitation. The

Office action cites *Zhou* as teaching the above-stated claim limitation missing from *Ogata* and *Kamata*. As shown above, however, *Zhou* similarly fails to disclose the recited claim limitation.

Since *Zhou*, *Ogata*, and *Kamata* each fail to disclose the above-stated claim limitation, Applicant respectfully submits that the combination of references cannot teach or suggest the above-stated claim limitation. Thus, Applicant respectfully submits that the Office action does not establish a *prima facie* case of obviousness under 35 U.S.C. § 103.

Claims 6-10 depend from claim 5 and claims 12 and 13 depend from claim 11. Applicant respectfully submits that claims 6-10, 12, and 13 are not rendered obvious by *Ogata*, *Kamata*, and *Zhou*, for at least the reason that dependent claims include the limitations of the claims from which they depend. Thus, Applicant respectfully submits that claims 5-14 are not rendered obvious by *Ogata*, *Kamata*, and *Zhou*.

Conclusion

For at least the foregoing reasons, Applicant submits that the rejections have been overcome. Therefore, claims 5-29 are in condition for allowance and such action is earnestly solicited. The Examiner is respectfully requested to contact the undersigned by telephone if such contact would further the examination of the present application.

Please charge any shortages and credit any overcharges to our Deposit Account number
02-2666.

Respectfully submitted,
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